IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

J U D G M E N T

JODHA RAM VS. STATE OF RAJASTHAN
[S.B.CRIMINAL APPEAL NO.201/1988]

S.B. Criminal Appeal No.201/1988 under Section 374 (2) Cr.P.C. against the Judgment dated 26.04.1988 in Sessions Case No.80/86, passed by Sh. Salig Ram Chouhan, Additional Sessions Judge No.2, Udaipur.

DATE OF JUDGMENT : 2st February, 2007.

P R E S E N T

HON'BLE MR.JUSTICE CHATRA RAM JAT

Mr. M.S.Panwar for Mr.J.K.Bhaiya,for the appellant.
Mr.L.R.Upadhyaya P.P.

BY THE COURT:

This appeal is directed against the judgment and order dated 26.4.88 passed by the Additional Sessions Judge No.2,Udaipur, whereby he convicted and sentenced accused appellant Jodha s/o Moti Gadari, after trial in Sessions Case No.80/86 under Section 2 of the Rajasthan Preservation of Certain Animals Act,1950 and sentenced him to suffer imprisonment to undergo 1 years rigorous imprisonment along with fine of Rs.300/-

and in default to further undergo one months rigorous imprisonment.

The prosecution story is woven like this:-

On 6.12.80 complainant Manohar Singh (PW1) lodged a report that his four cows went for grazing at about 8.30 in Sukhwada village towards village boundary (kankar) and entered in field of Jodha Gadri. Jodha Gadri beaten his cow by 'Jevdi' (two pronged agricultural equipment) and inserted the same “Jevdi' in urinary organ of cow and thereafter he deposited cow in cattle pond of village panchayat. As a result of inserting two arms of Jevdi in urinary parts of cow, heavy bleeding was coming from urinary part of cow and after 8-9 hours of releasing from cattle pond, cow was dead in bada.Upon this report police register F.I.R.NOI 137/80 under section 2 of the Rajasthan Preservation of Certain Animals Act,1950.Dead body of cow was examined by veterinary doctor and site inspection was done by the police.

In trial, prosecution produced P.W.1 Manohar Singh, P.W. Ranjeet Singh, P.W.3 Hemara P.W.4 Himmat Singh, P.W.5 Devi Singh, P.W.6 Rai Singh, P.W.7 Dr.Rajmal and P.W.8 Sher Mohammed and statement under Section 313 Cr.P.C.was recorded and accused denied the charges and claimed for trial.

Heard the learned counsel for the appellant and the learned Public Prosecutor and perused the record of the case .

Learned counsel for the appellant does not want to challenge the conviction but states that incident relates to dated 6.12.80 and accused appellant's aged 60 years on the date of statement recorded under section 313 Cr.P.C on 18.2.88 so now the appellant is about 80 years old and having no previous conviction, therefore, he must be released on probation so that his future life may be better.

Learned Public Prosecutor supported the judgment of the trial court and submitted that accused was rightly convicted by the trial Court but requested for appropriate orders be passed in the interest of justice.

After going through the record and hearing the submissions of the counsel for the parties and the fact that incident is of about 26 years old and the appellant is also about 80 years and having no record of previous conviction and looking to the quantum of punishment of one years R.I. with fine of Rs.300/.-. It is just and proper to release the accused appellant under Section 4 of the Probation of Offenders Act, 1958 to maintain good behaviour and keep peace. Accordingly, this appeal should be partly allowed.

In the result, the appeal of the appellant is partly allowed and the conviction under Section 2 of the Rajasthan

Preservation of Certain Animals Act,1950 is maintained but the sentence awarded by the trial court is modified and instead of punishment of sentence & fine, the appellant is given benefit of probation for one year with a bond of Rs.1000/- to keep good behaviour and peace for that period. The appellant will furnish aforesaid personal bond of Rs.1000/- to the satisfaction of the trial Court.

[CHATRA RAM JAT],J.

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